

076.351.320

BY-LAWS OF WESTLAKE OWNERS ASSOCIATION, INC.

ARTICLE I

NAME, REGISTERED OFFICE AND AGENT AND DEFINITIONS

Section 1.01. Name. The name of the Association is Westlake Owners Association, Inc. (the "Association"), a North Carolina nonprofit corporation.

Section 1.02. Registered Office and Agent. The Association shall maintain a registered office and shall have a registered agent whose business office is identical with such registered office. The Association may have offices at such place or places in, or within reasonable proximity of, Dallas, Texas or Charlotte, North Carolina as the Board of Directors may, from time to time, designate.

Section 1.03. Definitions. The defined terms used in these by-laws, as indicated by the capitalization of the initial character of such terms, unless otherwise specified or unless the context otherwise requires, shall have the same meanings as defined in that certain Initial Declaration of Covenants, Conditions and Restrictions dated April 5, 1988 by Braewood Development Corp., as "Declarant", for Westlake Business Park ("Westlake") and recorded, or to be recorded, in the Office of the Register of Deeds of Mecklenburg County, North Carolina (the "Declaration").

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 2.01. Membership. Every Owner shall be a member of the Association. In the case of any Owner not a natural person or persons, the votes appertaining to such Owner's Site may be cast pursuant to a proxy or proxies duly executed by or on behalf of such Owner, or, in cases where such Owner is more than one person, by and on behalf of all such persons, in accordance with Section 6.05 of these by-laws.

Section 2.02. Voting Rights. The Association shall have two (2) classes of members as follows:

CLASS A. Class A members shall be all Owners, including the Declarant. Except as otherwise provided in Section 7.3 and Section 10.2 of the Declaration, all Class A members shall be entitled to the number of votes set forth in Section 6.3(c) of the Declaration. If an Owner consists of more than one person and only one of those persons is present at a meeting of the Association, that person shall be entitled to cast the votes of such Owner; however, if more than one of such persons is present, such votes shall be cast in accordance with a unanimous agreement of such persons, and such unanimous agreement shall be conclusively presumed if any one of such persons purports to cast the vote of such Owner without protest being made forthwith by any of the other of such persons present at such meeting to the person presiding over the meeting. If such persons are unable to reach unanimous agreement as to how the votes of such Owner shall be cast, no vote may be cast by or on behalf of such Owner.

CLASS B. The only Class B member shall be the Declarant. The Class B membership shall cease at such time as Declarant owns less than one (1) acre of the Property, exclusive of any Common Areas, streets or rights-of-way.

Wherever in these by-laws a vote of the members of the Association is required, such vote shall be by a vote of Class A members and a vote of the Class B member, unless the vote of only one class of members is expressly provided in these by-laws or in the Declaration.

Section 2.03. Suspension of Voting Rights. During any period in which any Owner shall be in default for a period of sixty (60) or more consecutive days in the payment of any annual or special assessments levied by the Association, the voting rights of such Owner may be suspended by the Board of Directors until such assessment, together with all interest due thereon, reasonable attorneys' fees and expenses and costs of collection, have been paid in full. Such rights may also be suspended for a period not to exceed sixty (60) consecutive days for violation of any provisions of the Declaration or the Rules and Regulations established by the Board of Directors.

ARTICLE III

BOARD OF DIRECTORS; SELECTION AND TERM OF OFFICE

Section 3.01. Number. The affairs of the Association shall be managed by a board of directors (the "Board" or "Board of Directors", the "Directors" or the "directors") consisting of not less than three (3) nor more than nine (9) persons, as such number may, from time to time, be established by a vote of the members of the Association. After the date on which the Declarant's exclusive right to designate a majority of the Board

of Directors shall terminate or expire, each member of the Board of Directors must be a Owner. The initial Board shall consist of three (3) Directors. The term "Owner", for the purposes of this Section 3.01 and Section 7.01 of these by-laws, shall be deemed to include, without limitation, any shareholders, directors, officers, partners or members in or trustees of any entity which is, either alone or in conjunction with any other entity or entities, an Owner. Any individual who would not be eligible to serve as a member of the Board of Directors or officer of the Association were he not a shareholder, director, officer, partner or member in or trustee of such an entity shall be deemed to have disqualified himself from continuing in office if he ceases to have any such affiliation with such an entity.

Section 3.02. Election. As provided by Section 6.3 of the Declaration, Declarant shall, for the period specified therein, have the exclusive right to appoint a majority of the members of the Board of Directors and to remove all Directors appointed by Declarant. Upon the expiration or termination of such exclusive right, Declarant shall, within thirty (30) days of the date of such expiration or termination, give at least seven (7) days' written notice to each member of the Association of a special meeting to be held not more than sixty (60) days after the date of such termination for purposes of electing a new Board of Directors. In the event of the failure of Declarant to call said special meeting within the period provided above, the other members of the Board may call such special meeting in accordance with the provisions of Section 6.02 of these by-laws. At each subsequent annual meeting following said special meeting the members of the Association shall elect a director or directors to succeed to the office of any director whose term expires at the time of such meeting. Election to the Board of Directors shall be by secret written ballot, and at such election the members or their proxies may cast, with respect to each vacancy, the votes of their respective Sites as provided in the Declaration. The persons receiving the largest number of votes shall be elected, and cumulative voting shall not apply. Except in the case of death, resignation, disqualification or removal, each director elected by the members shall serve until the next succeeding annual meeting or until his successor has been duly chosen and qualified.

Section 3.03. Removal and Resignation. Any director, other than a director appointed by the Declarant, may be removed from the Board by a majority vote of the Class A members of the Association whenever in their judgment the best interest of the Association will be served thereby. Any director may resign at any time by giving written notice to the members of the Board, the president of the Association and the secretary of the Association. Such resignation shall take effect on the date of

receipt of such notice or at a later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. In the event of death, resignation, disqualification or removal of a director, his successor shall be selected by a majority of the remaining members of the Board, or by the sole remaining director, as the case may be, and shall serve for the unexpired term of his predecessor. Sale of its Site by a director or termination of his interest in a Site by a director, as provided by Section 3.01 of these by-laws or otherwise, shall automatically terminate such directorship.

Section 3.04. Compensation. Unless expressly approved by the members of the Association, no director shall receive compensation for any services he may render to the Association; however, the Board may elect to reimburse any director for expenses incurred by him in the performance of his duties as a director.

Section 3.05. Vacancies. Vacancies in the Board of Directors shall be filled by the remaining directors upon a majority vote of all remaining directors, or by the sole remaining director, as the case may be, as provided in Section 3.03 of these by-laws or if the vacancy is not so filled, by a vote of the members of the Association. A director elected to fill a vacancy on the Board shall hold office for the unexpired term of the director whose place shall be vacant and until his successor shall be duly chosen and qualified.

Section 3.06. Officers, Agents or Employees of Declarant. With respect to its rights under Section 6.3 of the Declaration to appoint and remove members of the Board, the Declarant may appoint any of its directors, partners, members, shareholders, officers, agents or employees to act for the Declarant as a member of the Association or as a member of the Board of Directors. Notwithstanding any other provision of these by-laws to the contrary, members of the Board appointed by Declarant pursuant to Section 6.3 of the Declaration, may be replaced by Declarant at any time with any other director, partner, member, shareholder, officer, agent or employee of Declarant, and in such event Declarant shall give written notice of such change to all other members of the Board and the secretary of the Association.

ARTICLE IV

MEETINGS OF DIRECTORS

Section 4.01. Regular Meetings. Regular meetings of the Board of Directors shall be held immediately following the

regular meeting of members or any meeting in lieu thereof and periodically thereafter at such place in Charlotte, North Carolina or Dallas, Texas and at such time as may be fixed, from time to time, by resolution of the Board. Should any such meeting date fall upon a legal holiday, then such meeting shall be held at the same time on the next day which is not a legal holiday. The Board of Directors shall keep minutes of its meetings and a full account of its transactions.

Section 4.02. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association or by any two directors, after not less than three (3) days' notice to each director.

Section 4.03. Quorum. The presence in person or by proxy of a majority of the directors shall constitute a quorum for the transaction of business. Every act or decision by a majority of the directors present in person or by proxy at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting of the Board, whether or not a quorum is present, may be adjourned by a majority of the directors present to reconvene at a specific time and place, but not for a period of greater than five (5) days after the date of the adjourned meeting. Twenty-four (24) hours' notice shall be given each director of the time and place to which the meeting has been adjourned. At any such reconvened meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 4.04. Notice of Meetings. Notice of the place, day and hour of every regular and special meeting shall be given to each director at least three (3) days before the meeting by delivering the same to him personally or by sending the same to him by telegraph, or by personal delivery to his residence, or by mailing such notice, postage prepaid, at least four (4) days prior to the meeting, addressed to him to his last known post office address, as shown by the records of the Association. It shall not be requisite to the validity of any meeting of the Board of Directors that notice thereof shall have been given to any director who attends such meeting, or who, if absent, waives notice thereof in writing filed with the records of the meeting either before or after the holding thereof. Only twenty-four (24) hours' notice of any adjourned meeting of the Board need be given by the directors.

Section 4.05. Action Taken by Directors. Except as otherwise provided in the Declaration or in these by-laws, every act or decision by a majority of the directors present in person or by proxy at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. In the event of any

tie vote, the issue at hand may be raised anew at a special meeting or the next regularly scheduled meeting of the Board.

Section 4.06. Action by Directors Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent thereto shall be signed by all the directors and such written consent is filed with the minutes of the proceedings of the Board. Such consent shall have the same force and effect as a unanimous vote of the Board of Directors.

Section 4.07. Proxies. Each director may vote in person or by proxy at a regular or special meeting of the Board. All proxies shall be in writing and delivered to the president. No proxy shall be revocable except by written notice delivered to the president of the Association; provided, however, that the presence of the director granting such proxy at the meeting specified in such proxy shall automatically revoke such proxy with respect to such meeting. No proxy shall be valid except for the regular or special meeting or meetings (or adjournments thereof) stated in such proxy. Any proxy shall be void if it is not dated or if it purports to be revocable without notice as aforesaid.

ARTICLE V

POWERS AND DUTIES OF BOARD OF DIRECTORS

Section 5.01. Power of Directors. The Board of Directors shall manage and direct the affairs and business of the Association and, subject to any restrictions imposed by law, by the Declaration or by these by-laws, may exercise all powers of the Association. The Association shall have the power to employ, retain, dismiss and replace agents and employees and to exercise and discharge the powers and responsibilities of the Association. The Association shall have the power to make, or cause to be made, additional improvements on and as a part of the Common Areas, and the power to acquire, lease or own, in the name of the Association, as nominee for all owners, property of any nature, real, personal or mixed, tangible or intangible, and to borrow money and to pledge, mortgage or hypothecate all or any portion of the property of the Association for any lawful purpose within the Association's inherent or expressly granted powers. Notwithstanding the foregoing, during the period that Declarant shall have the right to appoint and remove a majority of the members of the Board of Directors, no such improvements, acquisitions, leases, loans, pledges, mortgages or hypothecations shall be made by the Association except upon the written approval of Declarant.

Section 5.02. Duties. The Board of Directors shall exercise such duties and responsibilities as shall be incumbent upon it by law, the Declaration or these by-laws in addition to such other and further duties as it may deem necessary or appropriate in the exercise of its powers.

Section 5.03. Committees. The Board of Directors may designate from its members such committees as it may deem appropriate which may exercise such authority as may be delegated by the Board of Directors under North Carolina law, provided that each such committee shall be comprised of at least two (2) or more members of the Board of Directors. Every committee appointed by the Board of Directors shall report any actions taken by such committee to the meeting of the Board next following the date such actions are taken. The Board shall appoint the members of the Committee upon the expiration of the Declarant's right provided in Section 2.1 of the Declaration to appoint such members.

ARTICLE VI

MEETINGS OF MEMBERS

Section 6.01. Annual Meetings. Meetings of the Association shall be held not less frequently than annually. The first annual meeting of members shall be called by Declarant. The next annual meeting of the members shall be held on a date within one (1) year after the first annual meeting designated. Thereafter, regular annual meetings shall be held on the same day of the year unless otherwise provided by the members at any previous meeting. If the day for the annual meeting of the members shall fall on a weekend or legal holiday, the meeting shall be held at the same hour on the next following business day. If the annual meeting is not held on the day designated by the Board or by the members, any business, including the election of directors, which might properly have been acted upon at the meeting may be acted upon at any subsequent meeting of the Association held pursuant to these by-laws. At the annual meeting, reports of the affairs, finances and budget projections of the Association shall be made to the members. Meetings of the Association may be held at any place in, or within reasonable proximity to Dallas, Texas or Charlotte, North Carolina as set forth in the notice thereof or in the event of a meeting held pursuant to waiver of notice, as may be set forth in the waiver, or if no place is so specified, at the registered office of the Association.

Section 6.02. Special Meetings. Special meetings of the members may be called at any time by the Class B member, the president, by a majority of the Board of Directors, or upon written request of a majority of the votes of the membership.

Upon request in writing, delivered to the president, or secretary or any director, of a majority of the votes of the membership, it shall be the duty of the president, secretary, or such director to call for a meeting of the members. If the person to whom such request in writing shall have been delivered shall fail to issue a call for such meeting within three (3) days after the receipt of such request, then members constituting a majority of the votes of the membership may issue a call for such meeting by giving the notice prescribed in Section 6.03 of these by-laws.

Section 6.03. Notice of Meetings. Except as otherwise provided in Section 7.3 of the Declaration with respect to notices of special meetings for purposes of levying special assessments, written notice of each meeting of the members shall be given to each Owner by the secretary or such other person authorized to call the meeting, by personal delivery or by mailing a copy of such notice, United States Mail, postage prepaid, at least twenty-one (21) days prior to any annual meeting and at least seven (7) days prior to any special meeting, at such address as it appears on the records of the Association. The Owners entitled to vote shall be the Owners of Sites that have notified the Association by written notification to the president or secretary of their status as Owners in accordance with Section 7.9 of the Declaration. Such notice shall specify the place, day, hour and purpose of the meeting. In the case of a special meeting no business shall be transacted at such meeting except business relating to the purpose stated in the notice. It shall not be requisite to the validity of any meeting of the members that notice thereof, as prescribed by these by-laws, shall have been given to any member who attends in person or by proxy, or who, if absent, waives notice thereof in writing filed with the records of the meeting either before or after the holding thereof. The presence at all or a portion of the meeting specified in a proxy granted by a member shall automatically revoke such proxy with respect to such meeting. Except as otherwise provided in Section 6.04 of these by-laws, no notice of an adjourned meeting of members need be given.

Section 6.04. Quorum. The presence in person or by proxy at meeting of members entitled to cast a majority of the votes of the membership shall constitute a quorum except as may be otherwise provided in the Declaration or these by-laws. Any meeting of the members, whether or not a quorum is present, may be adjourned by the holders of a majority of the votes represented at the meeting to reconvene at a specific time and place. It shall not be necessary to give any notice of the reconvened meeting or of the business to be transacted, if the time and place of the reconvened meeting are announced at the meeting which was adjourned; provided, however, that notice of the reconvened meeting shall be given if such reconvened meeting takes place more than ten (10) days after the meeting so

adjourned. At any such reconvened meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified. Notwithstanding the foregoing, at any meeting called with respect to the levy of a special assessment, eighty percent (80%) of all votes of the Association, represented in person or by proxy, shall be required for a quorum. If the required quorum is not present at such meeting, the same may be adjourned to a date within ten (10) days following the first meeting, and, following notice as provided in Section 6.03 of these by-laws, sixty percent (60%) of the votes of the Association, present in person or by proxy, shall constitute a quorum. If the required quorum is not there present, the meeting may be again adjourned to a date within ten (10) days following the first reconvening following notice as aforesaid, and fifty percent (50%) of the votes of the Association, present in person or by proxy, shall constitute a quorum.

Section 6.05. Proxies. The vote or votes appertaining to any Site may [and in the case of any Owner (other than the Class B member) not a natural person or persons shall] be cast pursuant to a proxy or proxies duly executed by or on behalf of the Owner, or, in cases where the Owner is more than one person, by and on behalf of all such persons, and delivered to the secretary of the Association. No such proxy shall be revocable except by written notice delivered to the secretary of the Association by the Owner or by any of such persons. Any proxy shall be void if it is not dated or if it purports to be revocable without notice as aforesaid. No proxy shall be valid after thirty (30) days from the date of its execution unless otherwise expressly provided in the proxy, but in no event shall any proxy be valid after ninety (90) days from the date of its execution. The Board may promulgate the form of proxy to be used by members of the Association or by directors, and if either of such forms are promulgated, such forms shall be the only permissible proxy form used in casting ballots by proxy.

Section 6.06. Action Taken by the Association. Except as otherwise provided in the Declaration or these by-laws, any action taken at any meeting of members shall be effective and valid if taken or authorized by not less than a majority of all the votes thereon to which all the members present in person or by proxy at a duly constituted meeting shall be entitled. In the event of a tie vote at any regular, special or adjourned meeting of the Association, the president, or the vice-president in the absence of the president, shall cast a separate vote to break the tie.

Section 6.07. Voting. Voting on all matters shall be by ballot. Each ballot shall state the name of the member voting

and the number of votes cast by such member, and if such ballot be cast by proxy, it shall also state the name of the person granting such proxy and a true, complete and correct copy of such proxy shall be attached to the ballot.

Section 6.08. Action by the Association Without a Meeting. Any action which may be taken at a meeting of the members of the Association may be taken without a meeting if a written approval and consent setting forth the action authorized shall be signed by each of the members entitled to vote on the date on which the last such member signs such approval and consent and upon the filing of such approval and consent with the secretary of the Association. Such approval and consent so filed shall have the same effect as a unanimous vote of the members at a special meeting called for the purpose of considering the action authorized.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 7.01. Enumeration of Officers. The officers of the Association shall be a president and vice-president, both of whom shall be members of the Board of Directors, a secretary, a treasurer and such other officers as the Board may from time to time by resolution create. Each officer must be an Owner.

Section 7.02. Election of Officers. The election of officers shall take place at the first regular meeting of the Board of Directors following the first annual meeting of the members and at subsequent regular meetings of the Board following each annual meeting of members.

Section 7.03. Term. Each officer of the Association shall be elected annually by the Board and each shall hold office for one year until the regular meeting of the Board following the next annual meeting of members and until his successor is duly elected and qualified, unless he shall sooner resign, or shall be removed, or otherwise become disqualified to serve.

Section 7.04. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, designate.

Section 7.05. Removal and Resignation. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall

take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Sale of its Site by an officer or termination of its interest in a Site by an officer, as provided in Section 3.01 of these by-laws or otherwise, shall automatically terminate its term as an officer.

Section 7.06. Vacancies. A vacancy in any office shall be filled by the Board of Directors at its next regular or special meeting. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces and until its successor shall be duly chosen and qualified.

Section 7.07. Multiple Offices. The offices of vice president, secretary and treasurer may be held by the same person, but no officer may act in more than one capacity where action of two or more officers is required. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 7.04 of these by-laws.

Section 7.08. Duties. The duties of the officers shall be as follows:

(a) President. The president (herein referred to as the "President" or "president") shall be the chief officer of the Association; shall preside at all meetings of the Board of Directors; shall see that orders and resolution of the Board are carried out; shall sign all written instruments regarding the common areas; shall co-sign all checks and promissory notes, if any; shall have authority to sign and execute, in the name of the Association, all authorized contracts and other instruments; shall annually prepare a statement of the affairs of the Association which shall be submitted at the annual meeting of the member.

(b) Vice-President. The vice-president (herein referred to as the "Vice-President" or "vice-president") shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be delegated to him by the Board.

(c) Secretary. The secretary (herein referred to as the "Secretary" or "secretary") shall record the votes and keep the minutes of all meetings and proceedings of the Board, and of the members; shall keep appropriate current records showing the members of the Association together with their addresses; shall keep custody of the books, records, contracts and other documents of the Association other than financial books and records; shall keep custody of and affix

the seal of the Association; shall be responsible for seeing that all notices are duly given in accordance with the provisions of these by-laws; and shall perform such other duties as may be required of him by the Board.

(d) Treasurer. The treasurer (herein referred to as the "Treasurer" or "treasurer") shall be responsible for the maintenance and custody of proper financial books and records of the Association; shall have charge and be responsible for all funds, securities, receipts and cause to be deposited in the name of the Association all money or other valuable effects in such banks or other depositories as shall, from time to time, be selected by the Board of Directors; shall render to the president and to the Board, whenever requested, an account of the financial condition of the Association; and shall perform such other duties as may be required of him by the Board of Directors.

Section 7.09. Bonds. The Board of Directors may by resolution require any or all of the officers, agents or employees of the Association, to give bonds to the Association, with sufficient surety or sureties, conditioned on the faithful performance of the duties of their respective offices or positions, and to comply with such other conditions as may, from time to time, be required by the Board of Directors.

Section 7.10 Compensation. Unless expressly approved by the members of the Association, no officer shall receive compensation for any services which he may render to the Association; however, the Board of Directors may elect to reimburse any officer for expenses incurred by him in the performance of his duties as an officer.

ARTICLE VIII

BOOKS AND RECORDS

Section 8.01. Books and Records Kept by the Association. The Association shall keep detailed, complete and accurate financial records, including itemized records of all receipts and disbursements, shall keep detailed minutes of the proceedings of all meetings of the members and of the Board of Directors and committees having any of the authority of the Board of Directors, and shall keep such other books and records as may be required by law or necessary to reflect accurately the affairs and activities of the Association. The Association shall keep at the office of the Association a record giving the names and addresses of the directors and of all members of the Association.

Section 8.02. Inspection. The books, records and papers of the Association shall at all times during reasonable business hours be subject to inspection by any member. True and correct copies of the Articles of Incorporation of the Association, these by-laws, and the Declaration, with all amendments thereto, shall be maintained at the principal and the registered offices of the Association. Copies thereof shall be furnished to any owner on request and payment of a reasonable charge therefor.

ARTICLE IX

CONTRACTS, CHECKS DEPOSITS AND FUNDS

Section 9.01. Contracts. The Board of Directors may authorize any officer or officers, or agent or agents of the Association, in addition to the officers so authorized by the Declaration and these by-laws, to enter into any contract or execute and deliver any instrument in the name of, or on behalf of, the Association, and such authority may be general or confined to specific instances.

Section 9.02. Checks, Drafts, Etc. All checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, or agent or agents of the Association, and in such manner as shall, from time to time, be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the treasurer and countersigned by the president or vice-president of the Association.

Section 9.03. Deposits. All funds of the Association shall be deposited, from time to time, to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

Section 9.04. Gifts. The Board of Directors may accept, on behalf of the Association, any contribution, gift, bequest or devise, whether in cash or in kind, for the general purposes, or for any special purpose, of the Association.

ARTICLE X

INSURANCE AND CASUALTY LOSSES

Section 10.01. Insurance for the Common Areas. The Board of Directors shall, to the extent practical, obtain insurance for all of the improvements on the Common Areas against loss or

damage by fire or other hazards, including such extended coverages as the Board may determine are in the best interest of the Association, vandalism and malicious mischief, in an amount sufficient to cover the full cost of any repair, reconstruction or replacement in the event of damage or destruction from any such hazard. The Board may also obtain (i) insurance as may be available to cover the indemnification of officers and directors of the Association as provided in Section 11.13 of these by-laws with such limits as may reasonably be required by the Association, and (ii) a comprehensive general liability policy covering all Common Areas and all damage or injury caused by negligence of the Association or its directors, officers, employees or agents, which comprehensive general liability policy shall be in an amount of not less than \$1,000,000.00 for personal injury, or death, or damage to property. Premiums for all such insurance shall be an expense of the Association. All such insurance coverage obtained by the Board of Directors and shall be written in the name of the Association.

Section 10.02. Damage and Destruction to Common Areas. Immediately after any damage or destruction by fire or any other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article X, means repairing or restoring the damaged property to substantially the same condition in which it existed immediately prior to the fire or other casualty. If the insurance proceeds for such damage or destruction are not sufficient to defray the cost thereof, the Board of Directors shall levy a special assessment against all Owners in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction unless such deficiency can be appropriated from a reserve fund as may have been established for such purpose. Additional assessments to defray such costs may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by the Association together with the insurance proceeds paid in connection with such damage or destruction in trust for the benefit of the members of the Association. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with a certificate of the Association signed by the president or vice president and attested by the secretary or assistant secretary directing the making of the disbursements. Any proceeds remaining after defraying such costs shall become general revenues of the Association. If the Board

of Directors determines that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall become general revenues of the Association.

Section 10.03. Damage or Destruction to Improvements. In the event of damage or destruction by fire or other casualty to any improvements, buildings or other structures on any Site such damage or destruction shall be repaired, or such improvements, buildings or other structures razed, as the case may be, in accordance with the applicable provisions of the Declaration.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment. These by-laws may be amended at a regular or special meeting of the members of the Association pursuant to a resolution adopting a proposed amendment proposed by either the Board of Directors or by the membership of the Association. Such resolution must be approved by Class A members to which at least a majority of the Class A votes in the Association appertain and by the Class B member; provided, however, (i) that prior to the date on which the right of Declarant under Section 6.3 of the Declaration to appoint a majority of the members of the Board of the Association expires, amendments to these by-laws may be made by the Class B member without the consent of any other Owners, and (ii) that in the event any amendment materially and adversely affects the security interest of any Mortgagee in any Site, the amendment shall be binding upon such Mortgagee only upon the written consent thereto of such Mortgagee. Any amendment made by the Declarant pursuant to this Section 11.01 shall be certified by Declarant as having been duly approved by the Declarant, and such Owners if applicable, and shall be effective when filed with the secretary of the Association.

Section 11.02. Conflicts. In the case of any conflict between a particular term or provision of the Declaration and any term or provision of these by-laws addressing the same subject matter, the term or provision of the Declaration shall govern; provided, however, Section 11.01 of these by-laws shall control with respect to amendment of these by-laws.

Section 11.03. Accounting. The Association's books shall be closed and balanced at the end of each fiscal year of the Association. Upon the request of Owners to which at least a majority of the votes in the Association appertain, or at the direction of the Board of Directors, an audit, at the expense of

the Association, shall be prepared by such firm of certified public accountants as the Board of Directors may designate and shall be available for review by all Owners.

Section 11.04. Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and shall end on the 31st day of December of every year, except that the first fiscal year shall begin on the date on which the Declaration is recorded and shall end on the 31st day of December immediately following the date of such recording.

Section 11.05. Corporate Seal. The Association shall have a corporate seal in circular form having within its circumference the words: Westlake Owners Association, Inc.

Section 11.06. Rules of Order. Except as may be otherwise provided herein, the parliamentary conduct of all meetings of the Board and of the Association shall be conducted substantially in accordance with the most recent edition of Roberts Rules of Order.

Section 11.07. Annual Statements. No later than four (4) months after the close of each fiscal year, and in any case prior to the next annual meeting of members, the Board of Directors shall prepare or cause to be prepared (a) a balance sheet showing in reasonable detail the financial conditions of the Association as of the close of its fiscal year and (b) an income and expenses statement showing the results of its operations during its fiscal year. Upon receipt of written request, the treasurer of the association promptly shall mail to any member a copy of the most recent such balance sheet and income and expense statement.

Section 11.08. Severability. Invalidation of any covenant, condition, restriction, provision, sentence, clause, phrase or word contained in these by-laws, or the application thereof in any circumstances, shall not affect the validity of the remaining portions thereof and of the application thereof, which shall remain in full force and effect.

Section 11.09. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

Section 11.10. Notices. Any notice required to be sent to an Owner pursuant to any provision of the Declaration or these by-laws shall be served by personal delivery or by depositing such notice in the mails, postage prepaid, regular mail, addressed to an Owner at such address as such Owner may have

designated to the Association, or, if no other address has been designated, then at the address of such Owner's Site. Such service shall be deemed sufficient, and the date of service shall be deemed to be the date of mailing.

Section 11.11. Headings and Captions. The articles and section headings and captions herein are for convenience and reference only and in no way define or limit the scope and content of these by-laws or in any way affect the provisions hereof.

Section 11.12. Statement of Unpaid Assessments. The Board of Directors may, from time to time, establish a reasonable fee for furnishing the certificate provided for in Section 7.8 of the Declaration. The initial fee for such certificate shall be Fifty Dollars (\$50.00).

Section 11.13. Right to Indemnification. Each person who is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, or as a trustee or administrator under an employee benefit plan, shall be indemnified by the Corporation as a matter of contract right to the maximum extent permitted under North Carolina law against any and all claims and liabilities to which he has or shall become subject by reason of serving or having served as such director or officer or by reason of any action alleged, whether or not the claim, liability or alleged action arises from action taken in an official capacity, and the Corporation shall reimburse each such person or shall advance such person sums as hereinafter provided, for all expenses, including reasonable attorneys' fees, actually incurred by him to the maximum extent permitted under North Carolina law in connection with any such claim or liability, provided, however, that no such person shall be indemnified against, or be reimbursed for any expense incurred in connection with, any claim or liability in which it is adjudged that he acted in bad faith or was guilty or liable by reason of his own willful misconduct in the performance of duty; and, provided further, that the Corporation shall not indemnify such person for actions initiated by such person unless such action is or was authorized by the Board of Directors.

Section 11.14 Insurance. The Corporation shall have the power, by resolution of the Board of Directors, to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or

arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability.

Section 11.15 Non-Exclusivity Of Rights. The right of indemnification hereinabove provided shall be in addition to other rights of indemnification permitted by applicable law, and shall not be exclusive of any rights to which any such director, officer, employee or agent may otherwise be entitled under any bylaw, agreement, vote of the Board of Directors [or members] or otherwise with respect to any liability or litigation expenses arising out of his activities in such capacity.

Section 11.16 Advances. Expenses incurred by a director, officer, employee or agent in defending a civil or criminal action of any type may be paid in advance of the final disposition of such action by the Corporation as authorized by the Board of Directors only upon receipt of an undertaking in writing by or on behalf of such director, officer, employee or agent that he will promptly repay such amount unless it shall be ultimately determined that he is entitled to such indemnification by these Bylaws or otherwise by applicable law.

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